



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

SEP 16 2005

Bradley Litchfield
Oldaker, Biden & Belair, LLP
818 Connecticut Ave, NW
Suite 1100
Washington, DC 20006

RE: MUR 5680
Texans for Henry Cuellar
Congressional Committee and
Rosendo Carranco, in his official
capacity as treasurer

Dear Mr. Litchfield:

On September 12, 2005, the Federal Election Commission found that there is reason to believe your clients, Texans for Henry Cuellar Congressional Committee and Rosendo Carranco, in his official capacity as treasurer, violated 2 U.S.C. § 434(b)(4), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). This finding, which has been designated MUR 5680, was based upon information ascertained in the normal course of carrying out its supervisory responsibilities. *See* 2 U.S.C. § 437g(a)(2). The Factual and Legal Analysis, which more fully explains the Commission's finding in MUR 5680, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of MUR 5680. Please submit such materials to the General Counsel's Office within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred.

Please note that you have a legal obligation to preserve all documents, records and materials relating to this matter until such time as you are notified that the Commission has closed its file in this matter. *See* 18 U.S.C. § 1519.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

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If you have any questions, please contact Peter G. Blumberg, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott E. Thomas", with a stylized flourish at the end.

Scott E. Thomas
Chairman

Enclosures
Factual and Legal Analysis

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Texans for Henry Cuellar Congressional Committee, and Rosendo Carranco, in his official capacity as treasurer

MUR: 5680

I. INTRODUCTION

This matter was initiated by the Federal Election Commission ("Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. Texans for Henry Cuellar Congressional Committee ("the Committee") is the authorized committee of congressional candidate Henry Cuellar in connection with his campaign for the House of Representative in the 28th Congressional District in Texas. Rosendo Carranco is the treasurer of the Committee.

II. FACTUAL AND LEGAL ANALYSIS

The Committee filed a 12 Day Pre-General Report, covering the period October 1, 2004 to October 12, 2004, on October 21, 2004, reporting total disbursements of \$78,570.11. The Report was amended on January 12, 2005 to disclose an additional disbursement of \$100,000, which increased the total reported disbursements to \$178,570.11. The additional disbursement, which had been made to the Campaign Group, Inc. for media services on October 7, 2004, represented a 127% increase in activity from the original report and represented 56% of the Committee's disbursements for the period. The Commission's Reports Analysis Division ("RAD") sent a Request for

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Additional Information ("RFAI") concerning the increase in financial activity on March 29, 2005, but the Committee missed several deadlines in responding to the original RFAI and the numerous follow-up telephone calls place by RAD.¹ On July 7, 2005, the Committee filed a Miscellaneous Report explaining that the Committee employee responsible for filing reports had overlooked the payment because it had been made by wire transfer, rather than by check. The Committee explained that it "caught the omission through an audit of our bank account" which occurred after the general election.

The treasurer of a political committee must file reports of all receipts and disbursements in accordance with the Act. 2 U.S.C. § 434(a)(1). A committee is required to file a pre-election report no later than the 12th day before any election in which the candidate is seeking election which shall be complete as of the 20th day before the election. 2 U.S.C. § 434(a)(2)(A)(i). The report shall disclose, *inter alia*, the total amount of disbursements, and an itemization of all disbursements, including expenditures made to meet the candidate's or committee's operating expenses. 2 U.S.C. § 434(b)(4)(b); 11 C.F.R. § 104.3(b)(2)(i). The Committee did not comply with reporting requirements when it failed to disclose the \$100,000 operating expenditure on the original 2004 12 Day Pre-Primary Report filed on October 21, 2004. The omission meant that the public lost the benefit of viewing a significant amount of the Committee's total disbursements before the general election. The earliest amendment to the report was filed

¹ The Committee filed a second amendment to the Report at issue on February 25, 2005 and a third Amendment on July 5, 2005. Both amendments included the same amount of total disbursements as the first Amendment (\$178,570.11), but reported different amounts for operating expenditures and loan repayments.

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several months later. *See* 2 U.S.C. § 434(b)(4); *see also* 11 C.F.R. § 104.3(b)(2)(i).

Accordingly, there is reason to believe that Texans for Henry Cuellar Congressional Committee and Rosendo Carranco, in his official capacity as treasurer, violated 2 U.S.C. § 434(b)(4).

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